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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

JOSUE SOTO, GHAZI RASHID, MOHAMED)
 ABDELFAHATTAH, on Behalf of All Aggrieved)
 Employees, All Others Similarly Situated, and)
 the General Public,)
 Plaintiffs,)

CASE NO. 08-CV-0033-L-AJB

vs.)
 DIAKON LOGISTICS (DELAWARE) INC., a)
 foreign corporation; and)
 DOES 1 through 50, inclusive,)
 Defendants.)

CLASS ACTION

DIAKON LOGISTICS (DELAWARE) INC.,)
 Counterclaimant,)
 vs.)
 JOSUE SOTO,)
 Counterclaim Defendant.)

**JOINT MOTION TO CONTINUE
 HEARING DATE ON DIAKON
 LOGISTICS (DELAWARE), INC.'S
 MOTION TO DISMISS FIRST
 AMENDED COMPLAINT**

DIAKON LOGISTICS (DELAWARE) INC.,)
 Third-Party Plaintiff,)
 vs.)
 SAYBE'S, LLC, ABDUL TRUCKING, INC.,)
 and RASHID TRUCKING, INC.,)
 Third-Party Defendants.)

Defendant/Counterclaimant/Third-Party Plaintiff, Diakon Logistics (Delaware), Inc.
 ("Diakon") and Plaintiffs Josue Soto, Ghazi Rashid and Mohamed Abdelfattah, by and through
 their respective counsel, respectfully request that this Court continue the hearing date on the

1 presently pending Motion to Dismiss First Amended Complaint presently scheduled for July 14,
2 2008 to the new hearing date of August 11, 2008, for the following reasons:

3 1. Diakon filed its Motion to Dismiss on May 5, 2008 (Docket Entry No. 36), setting
4 a hearing date of July 14, 2008.

5 2. Following the filing of Diakon's Motion to Dismiss, two additional Motions to
6 Dismiss were filed; specifically Plaintiffs filed in this action as Docket Entry No. 41, Plaintiffs'
7 Motion to Dismiss Amended Counterclaim as to Josue Soto Pursuant to Fed. R. Civ. P. 12(b)(6)
8 and Plaintiffs filed in this action as Docket Entry No. 45, Plaintiffs' Motion to Dismiss First
9 Amended Third Party Complaint of Diakon Logistics (Delaware), Inc. against Saybe's, LLC,
10 Abdul Trucking, Inc., and Rashid Trucking, Inc., pursuant to Fed. R. Civ. P. 12(b)(6).

11 3. The hearing date on both Motions to Dismiss filed by Plaintiffs has been set as
12 August 11, 2008 pursuant to an Order issued by this Court on June 25, 2008, Docket Entry No.
13 47.

14 4. The three pending motions address many similar legal and factual issues and it
15 would conserve both the resources of this Court and of the parties if the hearing date on Diakon's
16 motion is continued to August 11, 2008 so that Diakon's motion can be heard in conjunction
17 with Plaintiffs' two pending motions.

18 5. In consideration of Plaintiffs' consent to continue the hearing date on Diakon's
19 motion, Diakon has agreed to maintain the briefing schedule so that its reply brief to Plaintiffs'
20 opposition will remain as set, July 7, 2008.

21 WHEREFORE, Plaintiffs and Diakon respectfully request that the hearing on Docket
22 Entry No. 36, Diakon's Motion to Dismiss First Amended Complaint, be continued to August
23 11, 2008, to be held in conjunction with the hearing on Docket Entry No. 41, Plaintiffs' Motion
24 to Dismiss Amended Counterclaim as to Josue Soto Pursuant to Fed. R. Civ. P. 12(b)(6) and
25 Docket Entry No. 45, Plaintiffs' Motion to Dismiss First Amended Third Party Complaint of
26 Diakon Logistics (Delaware), Inc. against Saybe's, LLC, Abdul Trucking, Inc., and Rashid
27 Trucking, Inc., pursuant to Fed. R. Civ. P. 12(b)(6), and that the briefing schedule on Docket
28

Entry No. 36 be maintained so that Diakon's reply brief on the motion will be filed and served no later than July 7, 2008.

Respectfully submitted:

Dated: July 2, 2008

SCOPELITIS, GARVIN, LIGHT, HANSON
& FEARY, LLP

By: /s/ Christopher C. McNatt, Jr.
Christopher C. McNatt, Jr.
Attorneys for Defendant, Counterclaimant,
and Third-Party Plaintiff Diakon Logistics
(Delaware), Inc.

Dated: July 2, 2008

EMGE & ASSOCIATES

By: /s/ Derek J. Emge
Derek J. Emge
Attorneys for Plaintiff, Josue Soto, Ghazi
Rashid, Mohamed Abdelfattah, On Behalf
of All Aggrieved Employees, All Other
Similarly Situated, and the General Public

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served electronically via the court's ECF system upon the following counsel of record, this 2nd day of July, 2008:

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